

**MINUTES
of the
FOURTH MEETING OF THE 2018 INTERIM
of the
RADIOACTIVE AND HAZARDOUS MATERIALS COMMITTEE**

**November 20, 2018
State Capitol, Room 309
Santa Fe**

The fourth meeting of the 2018 interim of the Radioactive and Hazardous Materials Committee was called to order by Senator Jeff Steinborn, chair, on November 20, 2018 at 9:05 a.m. in Room 309 of the State Capitol in Santa Fe.

Present

Sen. Jeff Steinborn, Chair
Rep. Carl Trujillo, Vice Chair
Rep. Cathrynn N. Brown
Sen. Carlos R. Cisneros
Rep. David M. Gallegos
Sen. Gay G. Kernan
Sen. Richard C. Martinez
Rep. Debra M. Sariñana
Rep. Larry R. Scott

Absent

Sen. Ron Griggs
Sen. Carroll H. Leavell
Rep. Angelica Rubio

Advisory Members

Sen. Gregory A. Baca
Rep. Kelly K. Fajardo
Rep. Stephanie Garcia Richard
Sen. Nancy Rodriguez

Sen. William F. Burt
Sen. William H. Payne
Rep. Jane E. Powdrell-Culbert
Rep. Nick L. Salazar
Sen. Clemente Sanchez
Rep. Jim R. Trujillo

Staff

Shawna Casebier, Staff Attorney, Legislative Council Service (LCS)
Anthony Montoya, Staff Attorney, LCS

Minutes Approval

Because the committee will not meet again this year, the minutes for this meeting have not been officially approved by the committee.

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Tuesday, November 20

Welcome and Introductions

Senator Steinborn welcomed members, staff and guests and asked the committee members and staff to introduce themselves.

Current Issues of the Radioactive Waste Consultation Task Force

The committee welcomed Ken McQueen, secretary, Energy, Minerals and Natural Resources Department (EMNRD). Secretary McQueen provided the committee with an overview of the Radioactive Waste Consultation Task Force and the statutory authority for the task force found in Article 4A of Chapter 74 NMSA 1978, including the duties and powers of the task force. He stated that a recent meeting was held by the task force on October 30, 2018. At the meeting, the task force adopted a resolution that would require the task force to comply with certain sections of the Open Meetings Act. The task force also reviewed planned training drills. Secretary McQueen stated that one drill has been planned and that there is a possibility of an additional drill. He also noted that the minutes for the meeting and the resolution could be found on the EMNRD website.

Secretary McQueen introduced Eletha Trujillo, program coordinator, Waste Isolation Pilot Plant (WIPP) Transportation Safety Program, EMNRD, to the committee. Ms. Trujillo spoke about the extensive training exercises and the work being completed on the Raton and Colfax County WIPP transportation program. She stated that training had been conducted in Roswell in September and that hazardous materials training programs for law enforcement and first responders were being developed.

Responding to questions from the committee regarding the options for the WIPP transportation route, Ms. Trujillo stated that she would provide the federal regulation relating to the United States Department of Transportation's authority to designate routes. She also stated that training is currently done in coordination with the United States Department of Energy (DOE). Ms. Trujillo clarified that the transportation of hazardous materials not related to WIPP occurs regularly in the Carlsbad area. Ms. Trujillo stated that as shipments increase, so will the need for funding. The EMNRD plans to request more funding in the near future.

Responding to further questioning regarding the duties of the task force, Secretary McQueen stated that the statutes require the task force to report its findings regularly. He stated that this was open for interpretation but that the task force typically only meets when it is determined to be necessary and then reports on those meetings. Additionally, Secretary McQueen stated that there is currently over \$1.5 million in funding available through a federal and statewide cooperative agreement based on the project work plan for WIPP.

Status Update on the Remediation of the Carlsbad Brine Well

Secretary McQueen provided the committee with an update on the Carlsbad brine well. He stated that the brine well was used to produce brine water for oil and gas development for over 30 years. The well ceased production in 2008 due to concerns about a potential collapse. Secretary McQueen explained that the well is located in a high-traffic area and that the current remediation project aims to mitigate the potential dangers of the subsurface cavity caused by the well.

He stated that in 2017, the EMNRD submitted a request for proposals. Ultimately, the contract for the remediation project was awarded to Wood Environment and Infrastructure Solutions, Inc. The project is currently in the planning and design phase, the brine well property has been fenced and detour routes have been constructed. Secretary McQueen provided the committee with a map of the area and described the site in detail.

Approval of Minutes

Upon a motion made and seconded without any objections, the committee approved the minutes for the May 18, July 19 and August 15, 2018 meetings.

Supporting Amendments to the Federal Radiation Exposure Compensation Act (RECA) to Include the People of New Mexico

The committee welcomed Tina Cordova, co-founder, Tularosa Basin Downwinders Consortium (TBDC), and Mary Martinez White, member, TBDC. Ms. Cordova began her presentation by providing an overview on the TBDC. She stated that the TBDC was founded in 2005 to bring attention to the negative health effects caused by the radioactive fallout from the Trinity test site detonation, the first plutonium-based detonation, which occurred on July 16, 1945 in southern New Mexico. Ms. Cordova explained that after the explosion, a cloud of dust, ash and other particles spread and settled in surrounding communities. She stated that the United States government described the area chosen for the test site as uninhabited; however, there were numerous populated communities within a 50-mile radius.

Ms. Cordova stated that the TBDC has applied for numerous grants to perform health impact assessments. She stated that the purpose of these tests was to show the impact of the nuclear testing on the surrounding communities. She explained that the RECA has excluded New Mexicans from applying for the benefits offered under that act. Last year, the TBDC was offered a chance to testify in Congress relating to a bill that would make New Mexicans eligible for RECA compensation.

Ms. Martinez White discussed her personal experience with the effects of radiation exposure in the Tularosa Basin. She stated that of her family of seven people at the time of the test, six family members developed either a form of cancer or a degenerative disease later in life. She explained that this is not uncommon for families living in the area at the time and provided the committee with similar stories of other families living near the test site.

The committee requested that a letter be drafted endorsing eligibility for RECA benefits for New Mexicans. Members of the committee encouraged further study of the effects of nuclear testing and the areas that were affected.

Gold King Mine Spill and Other Superfund Site Cleanup Issues

The committee welcomed Dennis McQuillan, chief scientist, Department of Environment (NMED). Mr. McQuillan discussed the Gold King Mine incident of 2015, which was a blowout of contaminated water from the mine due to a collapsed tunnel caused by an excavation by the United States Environmental Protection Agency (EPA). He stated that the water contained numerous sediments and heavy metals, such as arsenic, zinc, gold and lead. The water discharged into the Animas River and eventually settled in Lake Powell. Mr. McQuillan stated that most of these contaminants have now settled in Lake Powell. He discussed the ongoing issues faced by the Animas River watershed system. He noted that the NMED is working to monitor the different sources of elevated metals and bacteria and the uses of affected water.

Mr. McQuillan then discussed the lawsuit against the EPA and some corporate entities responsible for the Gold King Mine. New Mexico and the Navajo Nation have consolidated their individual lawsuits. The state is requesting around \$2 million for litigation and has requested funding through the federal Water Infrastructure Improvements for the Nation Act to track and study the affected waterways. Mr. McQuillan provided the committee with a brief overview of common water contaminants and the baseline levels around the Animas River. He stated that the soil in the area is safe and that a public relations campaign is needed to increase public awareness that crops grown in the area are safe. Mr. McQuillan stated that the NMED is actively monitoring sondes installed throughout the river to collect data on the river. He explained that the NMED is in need of funding to equip the river with more sondes. The committee approved a letter to be sent to the Legislative Finance Committee in support of funding for sondes for monitoring the Animas River.

The committee then welcomed Michaelene Kyrala, policy director, NMED. Ms. Kyrala discussed the history of the federal Comprehensive Environmental Response, Compensation, and Liability Act, which provides for the designation of sites contaminated by hazardous waste as Superfund sites. Ms. Kyrala explained that without the proper management and remediation of these sites, they can contaminate nearby land, air and water and harm human health and the environment.

Ms. Kyrala explained the cleanup process of a designated Superfund site that has been placed on the national priorities list. The EPA oversees the process and can either require the landowners to perform the cleanup, or the EPA may perform the cleanup and require the landowners to reimburse the EPA. Ms. Kyrala discussed the numerous Superfund sites located in New Mexico and the current status of those sites. She then discussed the current financial needs for the cleanup process and the cost-sharing requirements among the EPA, the state and landowners.

WIPP Operations and Management

John Kieling, program manager, Hazardous Waste Bureau, NMED, introduced himself to the committee. Mr. Kieling began by providing the committee with background on the WIPP project. He stated that in early 2014, there was a salt hauler fire, leading to a drum breach and radiation release shortly thereafter. The WIPP facility suspended operation in 2014. In 2016, a settlement agreement and final order was signed, the NMED inspected the site and operations were approved to resume. In 2017, WIPP began receiving hazardous waste and has continued to do so. Mr. Kieling explained that WIPP has complied with audit requirements, and the current hazardous waste permit under which WIPP operates is effective until 2020. He stated that in the meantime, there are planned modifications to the site, including redesigning panel closures, increasing the capacity of surface storage and reviewing how waste volume of record is determined.

The committee allowed public comment on the presentation. Scott Kovak, Nuclear Watch New Mexico, stated that he respectfully requests the committee to support adequate funding for the NMED and the Hazardous Waste Bureau. He stated that he had concerns about plans to modify the waste volume of record calculations and stated that there has not been enough time to provide final comments on the rule change and requested five additional days. Mr. Kieling agreed that five days was adequate.

Motion

The committee, after receiving and reviewing a joint memorial, voted to endorse the legislation. The joint memorial requests that the New Mexico congressional delegation continue to support amendments to expand compensation under the RECA for individuals exposed to radiation in New Mexico.

Management Transition at Los Alamos National Laboratory (LANL)

The committee welcomed Dr. Thom Mason, president and chief executive officer, Triad National Security, LLC, and director, LANL. Dr. Mason explained that LANL has established a new organizational structure. He stated that after the transition to new management, LANL extended more than 10,200 job offers to current employees to continue working. Over 98 percent of workers accepted the offers. Dr. Mason provided his observations of the current workforce and praised their hard work and professionalism. He noted that the current mission of LANL requires full engagement by the laboratory and all personnel. The mission includes excellence in: 1) nuclear security; 2) mission-focused breakthroughs in science, technology and engineering; 3) needs-based mission operations planning; and 4) community partnerships and relations. Dr. Mason provided the committee with his credentials and personal background.

Responding to questions from the committee, Dr. Mason discussed his support of the in-state employee pipeline. Specifically, he referenced his opportunities to visit with institutions of higher learning across the state and plans to create partnerships with these institutions. He stated that the pipeline would be well-served by any assistance the legislature could provide in advancing training opportunities for students in relevant fields. Dr. Mason also provided

clarification on the tax structure of Triad National Security and how it affects revenue generated by the state's gross receipts taxes.

Public Comment

Joni Arends, Concerned Citizens for Nuclear Safety, thanked the committee for the hearing. She provided a brief background of the citizen group to which she belongs and expressed her concern for the number of criticality experts at LANL. She provided a reminder that the Defense Nuclear Facilities Safety Board would be meeting later in the month and included copies of the agenda.

Jay Coghlan, Nuclear Watch New Mexico, discussed his interpretation of a recent DOE order that permits laboratories to decide what access to provide to the Defense Nuclear Facilities Safety Board. He also raised concerns about the NMED's enforcement of the compliance order on consent with LANL. George Jones, Nuclear Safety Advocates Group, rose to express concern regarding the DOE's order and a lack of public awareness.

Jose Villegas, member, Texas Band of Yaqui Indians, rose to express his concern for the proposed Holtec interim nuclear fuel storage project and the lack of tribal communication and consultation.

Anna Hansen, commissioner, Santa Fe County Board of County Commissioners, also expressed concern regarding the Holtec project. She cited a recent resolution passed in Santa Fe County that prohibits the transfer of high-level waste through the county and expressed her desire for the project to be halted.

Eileen Shaughnessy and Leona Morgan, Nuclear Issues Study Group, provided a brief background on the group's grassroots organization and an update on its recent activities. They presented their concerns and opposition to the Holtec project and discussed a mixed-waste landfill in Albuquerque. Ms. Morgan asked the state to ensure that Native American tribes be consulted in further planning of the project.

Patricia Cardona, Sierra Club, and June Ferrill, Nuclear Safety Advocates Group, also expressed opposition to the Holtec project.

Adjournment

There being no further business before the committee, the committee adjourned at 5:05 p.m.